

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
9

10 RICHARD MATHIS, *et al.*,

11 Plaintiffs,

12 v.

13 COUNTY OF LYON, *et al.*,

14 Defendants.
15

Case No. 2:07-CV-00628-KJD-GWF

ORDER

16 Presently before the Court is Defendant Richard Glover's Motion for Change of Venue (#8).
17 Plaintiffs filed a response in opposition (#9) to which Defendant replied (#10). Also before the
18 Court is Plaintiffs' Motion for Leave to File Surreply (#15). Having read and considered the motion
19 for leave, and good cause being found, the Court grants the motion in accordance with Local Rule 7-
20 2(d).

21 **I. Analysis**

22 Defendant seeks to have venue transferred from the unofficial Southern District of Nevada to
23 the unofficial Northern District. Defendant Glover argues first, that the action should have been filed
24 in the Northern District originally, and second that the Court should transfer venue for the
25 convenience of the parties and witnesses.
26

1 First, venue is proper in a judicial district if “a substantial part of the events or omissions
2 giving rise to the claim occurred” in that district. 28 U.S.C. § 1391(b)(2). The locus of the injury
3 has been deemed to be a substantial part of the events giving rise to the claim in a tort action. See
4 Myers v. Bennett Law Offices, 238 F.3d 1068, 1075 (9th Cir. 2001). Plaintiff has properly
5 contended that his injuries occurred in Clark County, Nevada. While the complaint could have been
6 filed in the unofficial Northern District, no rule requires that it be filed in the “best” venue. See
7 Comm’l Lighting Prods., Inc. v. United States. Dist. Ct., 537 F.2d 1078, 1080 (9th Cir. 1976).
8 Therefore, the Court disagrees with Defendant’s assertion that filing in the Southern District was
9 improper.

10 Second, under § 1404 (a), a district court has discretion to “adjudicate motions for transfer
11 according to an individualized, case-by-case consideration of convenience and fairness.” Jones v.
12 GNC Franchising, Inc., 211 F.3d 495 (9th Cir. 2000)(citing Stewart Org. v. Ricoh Corp., 487 U.S.
13 22, 29 (1988)). Section 1404(a) reads: “For the convenience of parties and witnesses, in the interest
14 of justice, a district court may transfer any civil action to any other district or division where it might
15 have been brought.” When a court evaluates a § 1404(a) motion, the plaintiff’s choice of forum is
16 “entitled to ‘paramount consideration’ and the moving party must show that a balancing of interests
17 weighs heavily in favor of transfer.” Galli v. Travelhost, Inc., 603 F. Supp. 1260, 1262 (D. Nev.
18 1985). Accordingly, “§ 1404(a) provides for transfer to a more convenient forum, not to a forum
19 likely to prove equally convenient or inconvenient.” Van Dusen v. Barrack, 376 U.S. 612, 645-46
20 (1964). The burden is therefore on the defendant to make the strong showing that a change of venue
21 is warranted. See Decker Coal Co. v. Commonwealth Edison Co., 805 F.2d 834, 843 (9th Cir.
22 1986); Galli, 603 F. Supp. at 1262. Finally, a decision to transfer is committed to the sound
23 discretion of the trial court. See Jones, 211 F.3d at 498.

24 Defendant argues that a majority of the witnesses reside in Lyon County, and therefore, the
25 Northern District is the more convenient forum. However, Defendant has not made the strong
26 showing required to demonstrate the balance of interests weigh heavily in his favor. For example,

1 the out-of-state Plaintiffs aver that they will find travel to Las Vegas more convenient than travel to
2 Reno, Nevada. Therefore, considering Plaintiffs' choice of forum and the convenience of witnesses
3 and parties, the Court cannot conclude that a change of venue is warranted at this stage of the
4 proceedings. See Jones, 211 F.3d at 498. Therefore, the Court denies Defendant's motion to
5 transfer.

6 II. Conclusion

7 Accordingly, IT IS HEREBY ORDERED that Plaintiffs' Motion for Leave to File Surreply
8 (#15) is **GRANTED**;

9 IT IS FURTHER ORDERED that Defendant Richard Glover's Motion for Change of Venue
10 (#8) is **DENIED**.

11 DATED this 24th day of October 2007.

12
13 

14 _____
15 Kent J. Dawson
16 United States District Judge
17
18
19
20
21
22
23
24
25
26